CREEL GARCÍA-CUÉLLAR AIZA Y ENRÍQUEZ

Decree establishing several actions regarding glyphosate and genetically modified corn

Key Highlights:

Among relevant provisions, the Decree instructs the agencies of the Federal Public Administration to:

- Refrain from acquiring, using, distributing, promoting, and importing GM corn, as well as glyphosate or agrochemicals containing it as an active ingredient, for any use, within the framework of public programs or any other government activity;

- Revoke and refrain from granting authorizations and permits for the import, production, distribution, and use of glyphosate, establishing a transition period from the date of entry into force of the Decree until March 31, 2024;

- Revoke and refrain from granting permits for the release of GM corn seeds into the environment within Mexican territory;

- Revoke and refrain from granting authorizations for the use of GM corn grains for human consumption (use in dough and tortilla); and

- Instructs the Federal Commission for the Protection Against Sanitary Risks ("COFEPRIS") to grant temporary authorizations of GM corn for animal food and for the industrial use of human food - excluding the use in dough and tortilla- while its gradual substitution is achieved, without setting a fixed term limit or transitional period.

The application of this Decree may constitute a violation of the Trade Agreement entered by Mexico, the United States, and Canada (the "USMCA"), and therefore, a request for consultations by the U.S. Government with the Mexican Government in terms of Article 31.4 of the USMCA may be filed.

Companies affected by the Decree, may challenge its application through different mechanisms and on a case-by-case basis. Among them, affected parties could consider submitting a constitutional appeal action (amparo indirecto) against the provisions of the Decree, which must be filed before the Federal Courts. Further, regarding the final resolutions of the Federal Public Administration (e.g. COFEPRIS) which may revoke permits or refrain from granting them, it is possible to file an administrative appeal (recurso de revisión) within 15 business days before the relevant administrative authority, or a federal administrative litigation (juicio contencioso administrativo) within 30 days before the Federal Administrative Court.

Pursuant to the Transitory Provisions, the Decree became effective one day after the date of its publication on the Gazette.

The preceding information is intended as a timely update on the relevant on general administrative provisions. This content is informational only and does not constitute legal or professional advice. To obtain such advice or a deeper summary of the legal developments addressed in this document, please do not hesitate to contact our partner Leonel Pereznieto (leonel.pereznieto@creel.mx) our counsel Guillermo Govela Martínez (guillermo.govela@creel.mx).

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